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**ARTICLE 1: NAME OF AGREEMENT**

The name of this agreement is the ONE/ELJSA Space Charter Agreement (the “Agreement”).

**ARTICLE 2: PURPOSE OF AGREEMENT**

The purpose of this Agreement is to authorize ~~NYK~~ONE to charter space to ELJSA and to authorize the Parties (as hereinafter defined) to enter into arrangements related to the chartering of such space.

**ARTICLE 3: PARTIES TO AGREEMENT**

The Parties to the Agreement are:

1. ELJSA Line Joint Service Agreement, FMC Agreement No. 011982 (“ELJSA”)  
No. 163 SEC.1, Hsin-Nan Road Luchu District,  
Taoyuan City Hsien, 33858, Taiwan
- ~~2. Nippon Yusen Kaisha (“NYK”) until terminated pursuant to Article 15)  
3-2 Marunouchi 2-Chome  
Chiyoda-ku, Tokyo 100-0005  
Japan~~
- 3~~2~~. Ocean Network Express (“ONE”)~~(effective as of the Transition Date, as provided for in Article 15)~~  
7 Straits View, Marina One East Tower  
#16-01/03 and #17/01/06  
Singapore 018936

~~NYK~~, ONE, and ELJSA are hereinafter sometimes referred to individually as a “Party” and collectively as the “Parties.”

**ARTICLE 4: GEOGRAPHIC SCOPE**

This Agreement covers the trades between ports in Japan on the one hand and U.S. ports in the Pacific coast range on the other hand (hereinafter, the “Trade”).

## ARTICLE 5: AUTHORITY

5.1 (a) On each weekly sailing in the Trade, and on such terms and conditions as the Parties may from time to time agree, ~~NYK~~<sup>1</sup>ONE shall sell to ELJSA, and ELJSA shall purchase from ~~NYK~~ONE, vessel space on the services referred to as the ~~PS1 and PS2~~FP1 and operated under THE Alliance Agreement (FMC Agreement No. 012439) (the “Services”), as ~~such~~the Services may be renamed or otherwise modified from time to time, for cargo moving between ports in the Trade. The total number of TEUs to be sold hereunder shall initially be a fixed allocation of ~~350~~125 TEUs (@ 10.5 tons average per TEU), including ~~35~~PS111 reefer plugs, on each round voyage, which may be increased to as many as ~~600~~300 TEUs (@ 10.5 tons average per TEU) or as few as ~~200~~100 TEUs (@ 10.5 tons average per TEU) at any time without amendment to this Agreement.

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<sup>1</sup>~~Pursuant to Article 15, all references to NYK shall be deemed to be references to ONE after the Transition Date.~~

(b) Subject to operational requirements and space availability, ~~NYK~~ONE may sell ELJSA space in excess of the foregoing allocation on an *ad hoc* basis on terms to be agreed by the Parties. ELJSA may not slot charter or sub-charter space made available to it under this Agreement to any third party ocean carrier, except to its fully owned subsidiaries and affiliates which are Vessel Operating Common Carriers, without the prior written consent of ~~NYK~~ONE.

5.2 The Parties are authorized to discuss and agree on the terms and conditions relating to the sale of space hereunder, including slot hire (including any bunker element thereof) and additional charges for the use of reefer plugs (if any).

5.3 The Parties are authorized to discuss and agree on the following: their respective rights fair and reasonable allocation of liabilities among the Parties; apportionment of damages; satisfaction of claims; procurement of insurance and claims thereunder and indemnities for activities under this Agreement such as matters pertaining to cargo loss or damage; damage or loss to containers or other equipment; schedule or delivery delays; loss of or damage to a vessel; accidents; hazardous, breakbulk, or oversized cargoes; loss or damage caused by cargo; damage to persons or property; failure to perform; force majeure; general average; and any liability to third parties. The Parties may also discuss and agree on all matters relating to the terms and conditions of charter parties pertaining to the operation and use of vessels/space/cargo subject to this Agreement, participation in voluntary government programs concerning security, safety, or similar matters (such as C-TPAT), and sequestration of all or portions of vessels, or other Flag State use of vessels, including pursuant to the U.S. government's Voluntary Intermodal Sealift Agreement Program.

5.4 Each Party shall operate under its own name, issue its own bills of lading, publish its own tariff and shall collect its own freights. Each Party shall be responsible for marketing its own interests in the Trade. Nothing in this Agreement shall be deemed to constitute a partnership, association or joint venture.

5.5 Pursuant to 46 C.F.R. § 535.408, any further agreements contemplated by this Agreement which are required by the Shipping Act of 1984, as amended, to be filed shall not be implemented until an appropriate amendment to this Agreement has been filed and becomes effective.

## **ARTICLE 6: ADMINISTRATION AND DELEGATION OF AUTHORITY**

6.1 This Agreement shall be implemented and administered by meetings and other written and oral communications among the Parties. The Parties are authorized to adopt written procedures and policies with respect to the day-to-day operational requirements of the Service, as well as with respect to communications among themselves.

6.2 Counsel for the respective Parties are hereby authorized to file this Agreement and any amendments thereto with the U.S. Federal Maritime Commission, execute this Agreement and any amendments hereto, and to otherwise act on behalf of the Parties with respect thereto.

## **ARTICLE 7: MEMBERSHIP**

Membership is limited to the Parties, unless otherwise mutually agreed by the Parties.

## **ARTICLE 8: VOTING**

(a) Except as otherwise provided herein, decisions hereunder shall be reached by mutual agreement of the Parties.

(b) Notwithstanding any other provision of this Agreement, ELJSA acknowledges that the Service is subject to THE Alliance Agreement. Nothing in this Agreement shall be read to derogate from ~~NYK~~ONE's rights and obligations under THE Alliance Agreement (FMC Agreement No. 012439) or to require or permit that ELJSA consent to decisions by the parties to THE Alliance Agreement. In the event an action is taken by THE Alliance Agreement, or any successor vessel sharing agreement, which affects ELJSA's service under this Agreement, ELJSA shall advise ~~NYK~~ONE of the problem in writing and, if after consultation with ~~NYK~~ONE, the problem cannot be resolved, ELJSA shall have the right to terminate this Agreement on 30 days prior written notice.

## **ARTICLE 9: DURATION AND RESIGNATION**

9.1 This Agreement shall be effective as of the date it becomes effective under the U.S. Shipping Act of 1984, as amended, and shall be implemented on or about April 1, 2017 or such later date as the Parties may otherwise agree. Such date of implementation shall be referred to hereinafter as the "Commencement Date". Except as provided in Article 8(b), 9.2 and 9.3, this Agreement shall continue for a minimum duration of ~~twelve (12)~~seven (7) months from the date of Amendment 002 to this Agreement and indefinitely thereafter, with a minimum written notice of termination from either Party of three (3) months. Such notice of termination shall not be given prior to ~~nine-four (49)~~ months after ~~the Commencement Date~~the effective date of Amendment 002.

Notwithstanding the foregoing, the Agreement may not terminate, unless otherwise unanimously agreed, prior to the termination of the current round trip voyages for all vessels on the Service which commenced prior to the effective date of termination and not before all cargo and containers are discharged at the last discharge port in Japan.

grounding, explosion or fire affecting the propulsion or safe navigation of the vessel and other significant impacts to the vessel, perils of the sea, closure of, or obstacles in or danger to any canal, blockade of port or place or interdict or prohibition, condition or restriction of any kind on calls by either party's vessel at any port, port closure which result in the vessel's practical inability to call such port, or any restriction on commerce or trading, acts of God, or other events which render performance of this Agreement wholly or substantially impracticable, the Agreement shall not thereby be terminated, but (subject always to the various provisions for termination of this Agreement) the performance thereof shall be suspended (in whole or in part as appropriate) until such time as the performance thereof is again practicable, without prejudice to any rights, liabilities and obligations accrued at the date of suspension. Should the Agreement be wholly suspended for a period exceeding six (6) calendar months from the date of commencement of such suspension the Agreement shall terminate.

**ARTICLE 13: COMPLIANCE WITH LAW**

The Parties shall, individually and collectively, conduct their operations under this Agreement in compliance with laws and regulations applicable to one or both of the Parties, including but not limited to applicable regulatory compliance and trade sanctions, anti-boycott, anti-corruption and bribery, environmental, labor, competition, and privacy laws.

**ARTICLE 14: NOTICES**

Any notice hereunder shall be made by courier service or registered mail, or in the event expeditious notice is required, by e-mail confirmed by courier or registered mail, to the addresses shown in Article 3 hereof. Notice will be deemed received the day they have been dispatched.

**ARTICLE 15: ~~TRANSITION~~**

~~Effective April 1, 2018 (the "Transition Date"), the container liner operations of Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; and Nippon Yusen Kaisha shall be combined into a new company known as Ocean Network Express Pte. Ltd. ("ONE"). In light of the foregoing, the Parties hereto agree as follows:~~

~~(a) Effective as of the Transition Date, this Agreement is hereby amended to add ONE as a Party.~~

~~—— (b) — Subject to subparagraph (c) below, effective as of the Transition Date, NYK hereby transfers and assigns all its rights, obligations and liabilities under the Agreement to ONE and, subject to subparagraph (c) below, this Agreement shall automatically be terminated in regard to, and cease to apply to or bind, NYK, and with the same terms and conditions, automatically be effectuated to apply to and bind ONE. ONE hereby accepts the transfer and assignment of, and agrees to assume, all of the rights, obligations and liabilities of NYK under the Agreement effective as of the Transition Date. The other Parties to the Agreement hereby consent to the herein described transfer and assignment.~~

~~(c) — Notwithstanding subparagraph (b) above, NYK shall remain liable to the other Parties to the Agreement for its obligations under the Agreement with respect to the period prior to the Transition Date, as well as for any obligations arising out of or in connection with voyage legs which began prior to the Transition Date but which will not be completed until after the Transition Date and any cargo movements thereon. In this regard, it is understood and agreed by all Parties that ONE shall be responsible only for those obligations arising out of or in connection with voyage legs and/or cargo movements being performed by it, and shall not be responsible for voyage legs and/or cargo movements performed by NYK. The obligations of NYK under this subparagraph (c) shall survive the termination of the membership of NYK in this Agreement.~~

~~—— (d) — Subject to the last sentence of subparagraph (c) above, effective as of the Transition Date, the Agreement is hereby amended to delete NYK as a Party; provided, however, that notwithstanding said deletion, NYK shall remain a Party to this Agreement for purposes of completing voyage legs and for fulfilling all obligations arising out of or in connection with such voyage legs which began prior to the Transition Date but which will not be completed until after the Transition Date and any cargo movements thereon.~~

~~—— (e) — Prior to the Transition Date, ONE is authorized to attend and participate in all decisions under this Agreement. Notwithstanding the foregoing, ONE shall have no voting rights under the agreement until after the Transition Date.<sup>12</sup>~~

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<sup>2</sup> ~~Notwithstanding ONE's participation in discussions under the Agreement prior to the Transition Date, no antitrust immunity shall be conferred upon ONE for discussions that occur prior to the Transition Date.~~